

REMARKS

Examiner Peselev are thanked for having graciously held a telephone interview with the undersigned on September 6, 2005. The present application, Bright et al., U.S. P. No. 4,474,768 (hereinafter "Bright") and several co-pending applications were discussed. It was agreed that rule 132 declarations be filed to clarify the issue of whether Example 3 of Bright inherently produces substantially pure crystalline azithromycin monohydrate hemi-ethanol solvate and a terminal disclaimer be filed.

Applicants hereby enclose a copy of Dr. Helen Haigac's rule 132 declaration and Dr. Forcier's rule 132 declaration which were originally filed in connection with U.S. Serial No. 07/449,961. As shown in the declarations, the process in Example 3 of Bright produces DOBS NOT produce substantially pure crystalline azithromycin monohydrate hemi-ethanol solvate. Therefore, Bright does not inherently anticipate the presently pending claims. In addition, any potential double patenting issues should be resolved by the filing of the terminal disclaimer. Accordingly, favorable consideration of all pending claims and withdrawal of any objections based on Bright and on the ground of double patenting are respectfully requested.

CONCLUSION

In view of the Rule 132 declarations, the terminal disclaimer and the remarks, further and favorable considerations of the presently pending claims and the issuance of a Notice of Allowance are respectfully requested.

It is believed that no fee is required in connection with the filing of the present Supplemental Response. However, if any fees are required, the Commissioner is authorized to charge such fees to our Deposit Account No. 16-1445.

Respectfully submitted,

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